(4)

COURT FEE 5 Rs. INDIA FIVE RUPEES CANCELLED COURT FEE 5 Rs. INDIA FIVE RUPEES CANCELLED

SINGLE BENCH

S.B.

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 1222 OF 2007
(Cs)

PETITIONERS

1) Smt. Sarojani Bai, aged 60 years
w/o - Late TejBahadur Singh
Cast - Khastriya
Occupation - House wife

2) Rajesh Singh, aged 33 years
S/o - Late TejBahadur Singh
Cast - Khastriya
Occupation - Service

Both are Resident of Dhanwarpara,
Rani Road Korba, Teh. & Distt - Korba (C.G.)

P.R. No. 2872/06 dated 28/12/06 Presented by S.K. Pandey Adv.

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V/S

RESPONDENTS

1) Vipal singh Banafar, aged 55 years
S/o - Late Bodhan Singh
Cast - Khastriya, Occupation - Service

2) Vikas singh Banafar, aged - 56 years
S/o - Late Bodhan Singh
Cast - Khastriya, Occupation - Service

3) Vimal Singh Banafar, aged 65 years
S/o - Late Bodhan Singh
Cast - Khastriya, Occupation - Retired

4) Smt. Manmati, aged 55 years
w/o - Late Mohan Lal, Cast - Barber
Occupation - House wife
All are Resident of Dhanwarpara,
RaniRoad Korba, Teh. & Distt - Korba (C.G.)

5) Chhattisgarh Govt. through Collector
Korba, Distt - Korba (C.G.).

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

(57)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Writ Petition (c) No. 1222 of 2007

Petitioners — Smt. Sarojini Bai and another

Versus

Respondents — Vipal Singh Banafar and others

Shri S.V. Purohit, Advocate for the petitioners.

ORDER

(Passed on 1st day of March, 2007)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. By this petition, filed under Article 227 of the Constitution of India, the petitioner challenges the validity of the impugned order dated 28.10.2006 (P/1), passed by the Additional District Judge, Korba, in Miscellaneous Appeal No. 9/2006, whereunder the stay sought for in the appeal was rejected on the ground that the appellant has not specified in his application about the nature of the stay. Thus, the application was rejected. The appeal is still pending consideration before the learned Additional District Judge, Korba. In view of lack of material facts, the application for grant of stay was rejected by the learned Additional District Judge, Korba.
2. In this petition, filed under Article 227, material facts, which were not produced before the Court below, cannot be examined, as it is well settled principle of law that power of superintendence under Article 227 of the Constitution of India cannot be invoked to correct mere errors of fact. The High Court cannot, in exercise of

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its jurisdiction under Article 227, convert itself into a court of appeal.

3. This writ petition is accordingly dismissed. However, the petitioner is at liberty to make a fresh application before the Appellate Court for appropriate relief in the pending appeal.

Sd/-
Satish K. Agnihotri
Judge

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